

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JEFFREY M. TERRY.

Plaintiff.

v.

TOWN OF MORRISTOWN and ,
KARL PETER DEMNITZ, Individually,

Defendants.

Civil Action No.: 06-1788 (JAG)

**NOTICE OF MOTION TO DISMISS PURSUANT
TO FED.R.CIV.P. 12(b)(6)**

TO: Peter J. Cresci, Esq.
Cresci & Black LLC
830 Avenue A
P.O. Box 74
Bayonne, New Jersey 07002-0074
Attorneys for Plaintiff, Jeffrey M. Terry

PLEASE TAKE NOTICE that on Monday, January 22, 2007, at 10:00 a.m. in the forenoon, or as soon thereafter as counsel may be heard, the undersigned attorneys for defendants Town of Morristown and Karl Peter Demnitz, individually (collectively, "Defendants") shall move, pursuant to Fed.R.Civ.P. 12(b)(6), before the Honorable Joseph A. Greenaway, Jr., United States District Judge, for an Order dismissing the Complaint with prejudice based upon the Younger abstention doctrine.

PLEASE TAKE FURTHER NOTICE that in support of this Motion, Defendants shall rely upon the accompanying Certification of Suzanne J. Ruderman, Esq. with Exhibits attached. and supporting Memorandum of Law.

PLEASE TAKE FURTHER NOTICE that Defendants hereby request oral argument if this Motion is timely opposed.

A proposed form of Order is submitted herewith.

Respectfully submitted,

FOX ROTHSCHILD LLP
Attorneys for Defendants
Town of Morristown and
Karl Peter Demnitz, individually

Dated: December 27, 2006

By: s/Suzanne J. Ruderman
Suzanne J. Ruderman, Esq. (SR/1111)
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Roseland, NJ 07068
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CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a copy of the foregoing Notice of Motion to Dismiss Plaintiff's Second Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6); Certification of Suzanne J. Ruderman, Esq., with Exhibits attached thereto; Memorandum of Law in Support of Defendants' Motion; and proposed form of Order to be served upon the following parties via Federal Express – Overnight Delivery on the date set forth below:

Peter J. Cresci, Esq.
Cresci & Black LLC
830 Avenue A
P.O. Box 74
Bayonne, New Jersey 07002-0074

Attorneys for Plaintiff, Jeffrey M. Terry

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

s/Debra Fontana

Dated: December 27, 2006